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Sec. 3-2-186. - Definitions.

Terms used in this article are defined as follows:

- (a) *Agriculture*: The business of cultivating the soil; producing crops and raising horses, production of horticultural, aquacultural, and silvicultural products; and raising livestock to provide food or fiber for society.
- (b) *Authorized county official*: That county employee so designated by the county administrator.
- (c) *Caliper*: The diameter of a tree trunk in inches, measured at twelve (12) inches above the ground.
- (d) *Damaged tree*: A tree that has been wounded (bark scraped or removed, limbs removed or shattered, roots cut or crushed) to an extent that its survival is unlikely.
- (e) *Development, development activity*: Any nonagricultural activity that may include the following:
 - (1) Clearing, scraping or removing the vegetation from a site.
 - (2) Adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, grubbing, or otherwise significantly disturbing the soils of a site.
 - (3) The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance, and any use or extension of the use of land.
- (f) *Development review committee (DRC) or its successor equivalent*: A committee composed of members designated by the county administrator to review development applications.
- (g) *Development site*: That portion of a plot or parcel upon which development occurs.
- (h) *Hardship*: An exceptional circumstance which is unique to the subject property which is not shared by other property owners in that area, such as peculiar physical characteristics of the property. Self-created problems are not undue hardships nor are common difficulties shared by other property owners in the area.
- (i) *Drip line*: The outermost perimeter of the crown of a tree as projected vertically to the ground, as illustrated on Exhibit A.
- (j) *Heritage tree*: A tree and its root system of the species listed in Figure 1 whose circumference, height and crown measurements cumulatively meet or exceed the minimum points for the species as

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outlined in Figure 2. In order to qualify as a heritage tree, the tree shall be measured and scored based on the point system outlined in Figure 2.

FIGURE 1. SPECIES AND MINIMUM POINTS

Species	Minimum Points
Cypress (<i>Taxodium spp.</i>)	175
Oak (<i>Quercus spp.</i>)	150
Pine (<i>Pinus spp.</i>)	150

FIGURE 2. POINT SYSTEM

Measurements	Points
Trunk circumference to nearest inch (measured at four and one-half (4½) feet above grade)	One (1) per inch
Height to nearest foot (measured vertically from a point level with the base to the highest twig)	One (1) per foot
Average crown spread to nearest foot (measure and add longest and shortest diameters of limb spread and divide total by two (2) for average)	One (1) per two (2) feet

(k) *Native tree*: Any individual tree of a species listed in Figure 3. Damaged trees do not qualify as native trees for purposes of planting or preservation.

FIGURE 3. APPROVED TREE SPECIES—NATIVE

American Holly (*Ilex opaca*)
 Bald Cypress (*Taxodium distichum*)
 Baycedar (*Suriana maritima*)
 Black Mangrove (*Avicennia germinans*)
 Blolly (*Torrubia obtusata*; *Buapira discolor*)
 Longleaf (*Torrubia longifolia*)
 Bluejack Oak (*Quercus incana*)
 Button Bush (*Cephalanthus occidentalis*)
 Buttonwood (*Conocarpus erectus*)
 Catclaw Blackbeard (*Pithecellobium unguis-cati*)
 Chapman Oak (*Quercus chapmanii*)
 Cherry Laurel (*Prunus caroliniana*)
 Coastal Plain Willow (*Salix caroliniana*)
 Coconut Palm (*Cocos nucifera*)
 Dahoon Holly (*Ilex cassine*)
 East Palatka Holly (*Ilex opaca* "East Palatka")
 Everglades or Paurotis Palm (*Acoelorrhaphe wrightii*)
 Florida Elm (*Ulmus americana* var. *floridana*)
 Florida Fiddlewood (*Citharexylum fruticosum*)
 Florida Royal Palm (*Roystonea elata regia*)
 Gumbo-Limbo (*Bursera simaruba*)
 Hercules-Club or Toothache-Tree (*Zanthoxylum clava-herculis*)

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Laurel Oak (*Quercus laurifolia*)
Lime Prickly-Ash (*Zanthoxylum fagara*)
Live Oak (*Quercus virginiana*)
Loblolly Bay (*Gordonia lasianthus*)
Longleaf Pine (*Pinus palustris*)
Mahogany (*Swietenia mahogany*)
Myrtle Oak (*Quercus myrtifolia*)
Pignut Hickory (*Carya glabra*)
Pond Cypress (*Taxodium ascendens*)
Pop Ash (*Fraxinum carolinana*)
Red Bay (*Persea borbonia*)
Red Mangrove (*Rhizophora mangle*)
Red Mulberry (*Morus rubra*)
Sabal or Cabbage Palm (*Sabal palmetto*)
Sand Live Oak (*Quercus geminata*)
Sand Pine (*Pinus clausa*)
Sea Grape (*Coccoloba uvifera*)
South Florida Slash Pine (*Pinus elliotii* var. *densa*)
Southern Magnolia (*Magnolia grandiflora*)
Southern Red Cedar (*Juniperus silicicola*)
Southern Red Maple (*Acer rubrum*)
Stoppers (*Eugenia* spp.)
Sugarberry or Hackberry (*Celtis laevigata*)
Swamp Tupelo or Black Gum (*Nyssa sylvatica*)
Sweet Acacia (*Acacia farnesiana*)
Sweetbay (*Magnolia virginiana*)
Sweetgum (*Liquidambar styraciflua*)
Sycamore (*Plantanus occidentalis*)
Turkey Oak (*Quercus laevis*)
Walter Viburnum (*Viburnum obovatum*)
Water Oak (*Quercus nigra*)
Wax Myrtle (*Myrica cerifera*)*
White Mangrove (*Languncularia racemosa*)
Yaupon Holley (*Ilex vomitoria*)

*Used in limited quantities—See Figure 6 or [section 3-2-188](#), Minimum tree requirements.

FIGURE 4. APPROVED TREE SPECIES—NON-NATIVE

Black Olive (*Foresteria segregata*)
Bottlebrush (*Callistemon* spp.)
Chinese Elm (*Ulmus parvifolia*)
Crape Myrtle (*Lagerstroemia indica*)
Golden Rain Tree (*Koelreuteria formosana*)
Jerusalem Thorn (*Parkinsonia aculeata*)
Loquat (*Eriobotrya japonica*)
Royal Poinciana (*Delonix regia*)
Silver Dollar Eucalyptus (*Eucalyptus cinerea*)
Tree of Gold (*Tabebuia argentea*)

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Yellow Poinciana (*Peltophorum petrocarpum*)

Washington or Petticoat Palm (*Washingtonia robusta* or *Washingtonia filifera*)

- (l) *Native tree replacement fund*: A fund established to provide money for the purpose of planting trees on government-owned properties.
- (m) *Natural ground level*: The elevation and grade of the parcel that existed prior to the development activity.
- (n) *No tree affidavit*: A signed notarized statement by the landowner or his agent stating that no trees exist upon the site.
- (o) *Parcel*: A lot or tract of land.
- (p) *Planted tree*: A tree which has been nursery grown for resale or otherwise transplanted.
- (q) *Preserved tree*: A tree preserved on-site which has been barricaded or is located one hundred (100) feet or more from the farthest point of development and will count toward a development's minimum tree requirement.
- (r) *Prohibited trees*: Trees of undesirable or exotic species which disrupt natural habitats or are otherwise destructive. The following trees shall be considered prohibited:

FIGURE 5. PROHIBITED TREES

Australian Pine (*Casuarina equisetifolia* and *Casuarina glauca*)

Banyan Tree (*Ficus benghalensis*)

Brazilian Pepper (*Schinus terebinthifolius*)

Carrotwood (*Cupaniopsis anacardioides*)

Chinese Tallow (*Sapium sebiferum*)

Cuban Laurel (*Ficus Nitida*)

Eucalyptus (*Eucalyptus* spp. except *Eucalyptus cinerea*).

Indian Rosewood (*Dalbergia sissoo*)

Melaleuca (*Melaleuca quinquenervia*)

Rubber Tree (*Ficus decora*)

Silk Oak (*Grevillea robusta*)

Weeping Fig (*Ficus benjamina*)

- (s) *Spiking* (also known as "spurring"): The use of any metal gaff device, to aid in tree-climbing in order to remove branches, limbs or leaves from a tree.
- (t) *Topping* (also known as, "stubbing," "heading," "heading-back," "stubbing off," "tipping," "hatracking," "topping-off," "dehorning," "lopping," "roundover," "cut-over"): Trimming of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.
- (u) *Tree*: A woody perennial with one (1) or more well-defined main stems or trunks attaining four (4) inches or more in diameter growing upright to maturity, or to form a crown and branching at that point, ultimately reaching a height of fourteen (14) feet or more.
- (v) *Tree points*: A number calculated according to Figure 6.

FIGURE 6. TREE POINTS

Tree caliper (inches)	Retained Native (Except Palms)	Installed Native (Except Palms)	Non-Native* (Installed or Retained)	Native Palms (w/min. 6' clear trunk)	Palmetto 25 sq. ft. of preserved Wax Myrtles (min. 6' tall with at least one 2" stem)
2.0	1.0	1.0	0.5	0.5	0.5

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3.0	1.5	1.5	1.0	0.5	N/A
4.0	3.5	2.5	1.5	0.5	N/A
5.0	4.0	3.0	2.0	0.5	N/A
6.0	4.5	3.5	2.5	0.5	N/A
7.0	5.0	4.0	3.0	0.5	N/A
8.0	5.5	4.5	3.5	0.5	N/A
8.0**	6.0	5.0	4.0	0.5	N/A

*From Charlotte County Approved Tree List (Figure 3)

**Add .5 points for every inch thereafter (except in the case of Palms, Wax Myrtles, and Palmetto).

(Ord. No. 92-72, § 3, 9-1-92; Ord. No. 98-045, § 1, 6-23-98)

Sec. 3-2-187. - Generally.

The terms of this article shall apply to all types of development, regardless of size or the nature of development approval, unless otherwise exempted in this article.

- (a) On-site inspection for conformance with the requirements of section 3-2-188 shall be conducted by the Charlotte County code compliance division (or its equivalent successor) in order to receive a certificate of occupancy (C.O.).
- (1) The board of county commissioners shall establish, by resolution, appropriate fees to defray the cost of enforcing the provisions of this article.
 - (2) If the requirements of section 3-2-188 are not met at the time of final inspection, a reinspection fee, in an amount established by resolution, will be assessed for any additional inspections.
 - (3) For a period of one (1) year from the date of the issuance of the C.O., any tree regulated by this article that dies, or receives major damage or contracts a disease, such that its restoration to a sound condition is impractical, must be replaced by a tree of comparable size and type or a combination of trees having an equal number of tree points. Compliance may be determined by a follow-up inspection that may occur up to one (1) year from the date of the original C.O. inspection.
 - (4) Any tree which is required as a replacement to the original C.O. tree, is also subject to a one-year follow-up inspection, following its installation.
- (b) This article shall not apply to the following:
- (1) Properties which meet all of the following criteria:
 - a. The primary principal use is bona fide agriculture;
 - b. The property is zoned for agriculture;
 - c. The future land use map (FLUM) designation is agriculture; and
 - d. The property is not within a development of regional impact (DRI).
 - (2) Excavation activities pursuant to permit under the Charlotte County Excavation Ordinance in an area designated as agriculture on the future land use map, excluding any ancillary or accessory uses, structures or development.
 - (3) Developments which received final site plan approval or building permits prior to September 15, 1992, excluding the provisions of section 3-2-190, Heritage trees.
 - (4) Developments, alterations, or additions of one thousand (1,000) square feet or less.
 - (5) Interior remodeling or modifications.

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- (6) Commercial plant and tree nurseries, where plants and trees are grown and/or sold for horticultural purposes.
- (7) Removal of trees as part of an approved management activity within a preserve or resource conservation area.
- (8) Cemeteries.

(Ord. No. 92-72, § 4, 9-1-92; Ord. No. 95-011, § 1, 4-18-95; Ord. No. 98-045, § 2, 6-23-98)

Sec. 3-2-188. - Minimum tree requirements.

For all development regulated by this article, tree points must be preserved or planted according to Figure 7, below. A list of trees acceptable for the purpose of this article is given in Figures 3 and 4. (See definitions).

FIGURE 7. TREE POINTS FOR DEVELOPMENT TYPES

Development Type	Number of Tree Points Required
Residential, commercial and industrial	1 tree point for every 2,000 square feet of development site
Outdoor-oriented recreational activities which require open space and are available to the general public	1 tree point for every 4,000 square feet of development site

(a) In order to count toward the minimum tree point requirement, a preserved or planted tree must have a minimum height of eight (8) feet measured from the natural ground level to the highest point of the foliage and a minimum caliper of two (2) inches measured twelve (12) inches above the natural ground level.

- (1) Trees preserved within the minimum required rear and side yard setbacks of the development site may be counted toward the tree point requirement. Trees may be planted anywhere within the development site, including the minimum required rear and side yard setbacks, except where otherwise prohibited by the provisions of this article. A single phase of phased development shall be considered a development site and all the points shall be calculated within that phase.
- (2) Trees preserved or planted within easements may be counted toward the tree point requirement.
 - a. If a preserved tree located within an easement is removed during the lawful development activity within the easement for which the easement was intended, this loss shall not be held against the landowner or against the conditions of this article, and no action shall be taken against the rightful user of the easement for which it was intended.
 - b. A list of acceptable trees for tree planting in utility easements near power lines is set forth below in Figure 8.

FIGURE 8. RECOMMENDED TREES FOR PLANTING UNDER POWER LINES

Bottlebrush (*Callistemon spp.*)
Crape Myrtle (*Lagerstroemia indica*)
Loquat (*Eriobotrya japonica*)
Silver Dollar Eucalyptus (*Eucalyptus cinerea*)
Sweet Acacia (*Acacia farnesiana*)
Wax Myrtle (*Myrica cerifera*)

- c. Trees planted or preserved within easements shall not interfere, at or before maturity, with power, cable television, or telephone lines, sewer or water pipes, or any other existing or proposed overhead or underground utility service. Location of underground utility lines shall be determined prior to easement planting.
 - d. In the event that a tree is planted within an easement and is removed during lawful development activity within the easement for which the easement was intended, this loss shall be the responsibility of the property owner, the tree shall be replaced, and no action shall be taken against the rightful user of the easement for which it was intended.
- (3) Trees planted to meet the minimum tree point requirements of this article may not be planted within county rights-of-way.
- (b) While all preserved native palms may be counted, no more than twenty-five (25) percent of the required tree points may be obtained from planted native or non-native palm trees.
 - (c) No more than fifty (50) percent of the required tree points may be obtained from approved non-native trees (excluding non-native palms, which commonly count for twenty-five (25) percent of total required points per section 3-2-188(b).
 - (d) No more than twenty-five (25) percent of the required tree points may be obtained from approved Wax Myrtle which has been planted or preserved.
 - (e) No more than twenty-five (25) percent of the required tree points may be obtained from the approved square footage of preserved Palmetto.
 - (f) Replacement trees must carry plastic tags identifying their species and retained until the certificate of occupancy is granted.

(Ord. No. 92-72, § 5, 9-1-92; Ord. No. 98-045, § 3, 6-23-98)

Sec. 3-2-189. - Tree removal.

- (a) Prior to the removal of any tree on a development site with a caliper four (4) inches or greater, or palm with a clear trunk six (6) feet or greater, the landowner or his agent must receive a tree removal authorization signed by an authorized county official.
- (b) All applicants proposing development must submit the following to the community development department at the time of application for building permits and prior to any clearing activity:
 - (1) A tree inventory consisting of a scaled drawing indicating:
 - a. Development site boundaries.
 - b. Location of all individual trees, other than prohibited species, which have a caliper four (4) inches or greater; the trees' common names; and their approximate calipers.
 - c. A scaled drawing superimposed on the tree inventory illustrating all proposed and existing improvements; which trees are to be removed; and which trees are to be preserved.
 - (2) Proof that removal of trees is consistent with tree removal criteria in section 3-2-192 or tree removal fee exemptions in section 3-2-195. If it is determined that the trees to be removed are exempt from removal fees, a memorandum of fee exemption will be issued as proof of compliance.
 - (3) A fee shall be charged for each caliper inch of tree which has been granted tree removal authorization. These fees shall be placed into the native tree replacement fund pursuant to section 3-2-195
- (c) In the event that there are no trees on the development site, the applicant shall not be required to provide the tree inventory. In lieu of this requirement the applicant shall submit a "No Tree Affidavit."
- (d) For development requiring DRC (or its successor equivalent) approval, all documentation listed above and a landscape plan illustrating the incorporation of both preserved (if applicable) and

planted trees into the proposed development must be submitted at the time of preliminary plan submittal.

(Ord. No. 92-72, § 6, 9-1-92; Ord. No. 98-045, § 4, 6-23-98)

Sec. 3-2-190. - Heritage trees.

No person shall cut down, remove, relocate, or in any way damage a heritage tree. These trees shall be protected without regard to their location or the date of final development approval.

(a) An authorized county official shall exempt a heritage tree from the terms and provisions of this section if:

- (1) The tree is in advanced stages of decline; or
- (2) The tree is located where structure/improvement allowed as a permitted principal use under zoning regulations is to be located and the applicant has made every effort to accommodate the heritage tree within the design of the structure/improvement. It is the intent of this provision that a permit shall be granted for the removal of a heritage tree only after the applicant has demonstrated an effort to design and locate the proposed improvements to prevent the removal of heritage trees consistent with the permitted use of the property.

(b) Encroachment under a heritage tree will be allowed only to the extent provided by this article.

(Ord. No. 92-72, § 7, 9-1-92; Ord. No. 98-045, § 5, 6-23-98)

Sec. 3-2-191. - Tree preservation and protection.

(a) *Tree protection.* Where healthy trees of appropriate location, species, and quality exist on-site prior to development, efforts shall be made to preserve such trees permanently at natural grade.

- (1) Prior to the site clearing phase of development, the trees to be preserved shall be protected by the construction of barriers.
- (2) The barriers shall be constructed of wooden (or equivalent) posts at least two (2) inches by two (2) inches, and shall be implanted in the ground deep enough to be stable. The barriers shall be visible, with at least three (3) feet above the ground. The protective posts shall be placed not more than six (6) feet apart and shall be linked together using lumber; erosion fabric; net or plastic fence material, or snow fencing. Stakes strung with line or flagging shall not be considered a protective barrier.
- (3) Barriers shall be placed at least six (6) feet from the trunk of any protected palm.
- (4) For tree species other than palms, barriers will be placed at the drip line, except as allowed in an area of encroachment as defined in subsection (b) of this section.
- (5) In situations where Palmetto (*Serenoa repens*) occurs as a dense understory to existing oaks, pines, or palms, the existing Palmetto may be used as a living barricade for tree preservation, provided such Palmettos are retained to the dripline of the proposed preserved tree throughout construction. If the minimum square footage (25 sq. ft.) of Palmetto is then retained after construction, such Palmetto may qualify for additional tree points. (See sec. 3-2-188(e)).
- (6) Where clusters of trees or large areas are to be protected, the area may be designated by barriers placed at the drip line from the outermost trees of the cluster or within the allowable area of encroachment. (If the outermost trees are palms, the barrier shall be placed at least six (6) feet from the trunks of the outermost palm.)
- (7) Barriers will remain in place until all construction activity, except landscaping, within the protected areas is complete.

- (8) Trees not protected in the manner defined by this section throughout the construction period will not be considered preserved for purposes of this article, except for trees so located that they are one hundred (100) feet or more from the farthest point of development activity.
- (9) No equipment, vehicles, construction materials, temporary structures or buildings, machinery, fill soil, debris, fuel, paint, solvent, oil, thinner, asphalt, cement, grout, or construction chemical of any kind will be placed, allowed to enter, or be stored within the protective barriers established around protected trees or protected areas.
- (10) Temporary sanitation facilities shall not be located within the tree protection areas.
- (11) No damaging attachment, wires (other than support wires for a tree), signs or permits shall be fastened to any tree protected by this article.
- (b) *Encroachment permitted:* In the event that the preservation techniques referenced in subsection (a) are deemed impracticable, trees and tree roots may be encroached upon (See Exhibit A (following this article) for diagram) subject to the following conditions:
 - (1) No more than one-half of the radius of the tree canopy is impacted. This encroachment shall occur on no more than one (1) side of the tree.
 - (2) No more than one-third of all tree roots found at the outermost limits of the tree's drip line are encroached upon.
 - (3) The remaining area of the tree's roots shall be protected by barriers at the drip line throughout construction and shall remain in preconstruction condition during and after construction.
 - (4) Paved areas of allowable encroachment shall use techniques that provide for aeration and irrigation of the root system. These techniques include:
 - a. Substituting gravel or pebbles for typical fill soils; and
 - b. Using pervious or porous paving materials in the areas of encroachment.
 - (5) Supplemental irrigation shall be provided throughout construction in order to mitigate tree stress induced by this encroachment.
- (c) If the development utilizes construction techniques such as pilings or piers, which will not impact tree root systems, the area of allowable encroachment may be exceeded.
- (d) In no event shall a damaged tree, a dead tree, a tree not protected in accordance with the provisions of this section, or a tree not included in Figures 3 and 4 be counted as a preserved or planted tree for purposes of this article.
- (e) On-site inspection for conformance with the provisions of this section shall be conducted by the code compliance division inspectors or authorized county official at any time during a site's development.
(Ord. No. 92-72, § 8, 9-1-92; Ord. No. 98-045, § 6, 6-23-98)

Sec. 3-2-192. - Criteria for issuance of tree removal authorization.

- (a) Tree removal authorization shall be granted only when an authorized county official has determined that the removal is consistent with one (1) or more of the criteria below. Criteria are as follows:
 - (1) Trees pose a safety hazard to pedestrian or vehicular traffic or cause disruption to public utility services.
 - (2) Trees pose a safety hazard to buildings or structures.
 - (3) Trees completely prevent access or cross access to a lot or parcel.
 - (4) Trees prevent development or physical use. It is the intent of this provision that a permit shall be granted for the removal of any tree when the applicant has demonstrated an effort to design or locate the proposed improvements so as to minimize the removal of trees.
 - (5) Diseased trees or trees so weakened by age, storm, fire or other injury so as to pose a danger to persons, property, improvements or other trees.

- (b) Authorization to remove a tree(s), when granted, shall be confined to the tree(s) specifically identified for which removal is permitted. Removal of a tree(s) must be performed according to the following schedule, after which time the approval will be void; and no tree(s) may be removed without obtaining reauthorization based upon the submission of a new application and fees.
 - (1) For development not requiring DRC approval, tree removal must be performed within twelve (12) months from the date of the issuance of the tree removal authorization.
 - (2) For development requiring DRC (or its successor equivalent) approval, tree removal must be performed during the development activity for which DRC approval was granted.
- (c) Nothing in this article shall be construed to require the removal of any trees by the applicant.
(Ord. No. 92-72, § 9, 9-1-92; Ord. No. 98-045, § 7, 6-23-98)

Sec. 3-2-193. - Tree removal authorization; permit and fee; exemptions.

- (a) The following categories shall be considered exempt from tree removal authorization requirements and fees as provided in this article:
 - (1) Any portion of properties platted prior to September 15, 1992, which require fill, stemwall or piling construction.
 - (2) Removal of any tree(s) with less than a four-inch caliper and any palm with less than six (6) feet of clear trunk.
 - (3) Dead trees.
 - (4) Prohibited species of trees.
 - (5) The removal of trees located within the footprint and within six (6) feet of the footprint of any building construction.
 - (6) Lawful development activities within existing (existing prior to effective date) utility, drainage, and road rights-of-way or easements, for the purposes for which they were reserved, and the expansions of existing (existing prior to effective date) road easements.
 - (7) Proposed utility rights-of-way and easements less than twenty (20) feet in width; and less than one-half mile long, are exempt from the provisions of this article. Proposed utility rights-of-way and easements greater than twenty (20) feet in width, regardless of length, are subject to the conditions of this article unless said rights-of-way and easements are subject to approval under the Transmission Line Siting Act, F.S. §§ 403.52 through 403.5365, or the Florida Electric Power Plant Siting Act, F.S. §§ 403.501 through 403.518.
 - (8) The trimming, cutting, or other alteration to any existing tree, provided such activities are consistent with sound horticultural practices.
 - (9) In the event of an emergency such as the approach and imminent landing of a hurricane, windstorms, flood, freezes, fire, or other disasters, the county administrator retains the authority to temporarily waive the requirements of this section.
- (Ord. No. 92-72, § 10, 9-1-92; Ord. No. 98-045, § 8, 6-23-98)

Sec. 3-2-194. - Tree replacement.

Qualifying, existing trees shall be preserved whenever feasible in order to meet the tree point requirements. Whenever the removal of trees on a development site would result in failure to meet the minimum tree point standards, approved replacement trees shall be planted in sufficient number and size to meet these standards, and the following conditions shall apply:

- (a) *Approved tree species.* All trees selected to meet the requirements of this article shall be chosen from the Approved Tree List, Figures 3 and 4. Other tree species may be included on the development site, except prohibited species, but they shall not be counted toward meeting the

requirements of this article. Trees planted in compliance with chapter 3-5, article XVIII, Landscape Requirements, of the County Code, may be used to help satisfy the requirements of this section, provided they meet the criteria set forth in this article.

- (b) *Tree quality.* All trees used in conformance of this section shall meet the standards for Florida No. 1 or better as provided by *Grades and Standards for Nursery Plants, Part II, Palms and Trees*; current edition; State of Florida, Department of Agriculture, Tallahassee.
- (c) *Installation.* The property owner(s) shall be responsible for installing all trees in a sound, professional manner and in accordance with accepted good horticultural techniques.
 - (1) Grow bags and containers shall be completely removed from the root ball prior to planting.
 - (2) Burlap shall be sliced in both directions on the sides of the root ball and removed from the top one-third of the root ball.
 - (3) All twine or wire shall be cut off from around the trunk at the top of the rootball.
 - (4) Trees shall be mulched to a minimum depth of two (2) inches and a maximum depth of four (4) inches with organic mulch at least to the perimeter of the root ball.
 - (5) The owner(s) or their agent(s) shall provide sufficient soil and water to sustain healthy growth of all trees.
- (d) *Anchoring.* Trees with a caliper of four (4) inches or more shall be anchored for a period of at least one (1) year. Single staking of trees shall be prohibited.
- (e) *Postponement of planting.* In the event the property owner is not residing in Charlotte County at the time of certificate of occupancy (C.O.) issuance, and (i) wishes to choose and install his/her own trees; or (ii) is not available to care for the newly planted trees, upon written request, the property owner may post a security deposit, either as cash or certified check, which is equivalent to the established dollar amount for the development's required number of tree points. (Same as the "buy-out" fee). This cash security deposit is valid for ninety (90) days from the issuance of the certificate of occupancy.
 - (1) Upon inspection and written approval from the code compliance inspector that all tree installation has been met within the allotted ninety-day period, the posted security deposit will be refunded within five (5) working days.
 - (2) Should the property owner fail to properly install the required number of tree points in the allotted time, the money will be placed into the native tree replacement fund without further refund.

(Ord. No. 92-72, § 11, 9-1-92; Ord. No. 98-045, § 9, 6-23-98)

Sec. 3-2-195. - Native tree replacement fund.

- (a) The public works department is hereby authorized and directed to administer a native tree replacement fund which consists of monies collected as payment for tree removal authorization and in lieu of planting or preserving trees on developed properties. The community development department is hereby authorized and directed to collect the monies for payment of the native tree replacement fund. Thus, a person shall pay to the community development department a sum determined by multiplying the number of required tree points which they wish to be excused from preserving or planting on a development site times the native tree replacement fee, said fee to be established by resolution of the board of county commissioners.
 - (1) The community development department shall keep daily records of the monies received pursuant to this section.
 - (2) The board of county commissioners shall establish, by resolution, a program administered by the public works department which shall apply monies received to the planting of native trees,

native shrubs, mulch, installation, design, and irrigation on lands or easements of the county or government owned lands. Non-substantive amendments may be made from time to time without action by the board of county commissioners as deemed necessary for the administration of the program.

(Ord. No. 92-72, § 12, 9-1-92; Ord. No. 98-045, § 10, 6-23-98; Ord. No. 2007-077, § 1, 10-23-07)

Sec. 3-2-196. - Slope variance.

Notwithstanding other county requirements, and in order to facilitate the policy that preservation is more desirable than replacement, if preservation cannot be accomplished in conjunction with a 6 to 1 slope but can be accomplished by using a 4 to 1 slope, then such is authorized. The construction of tree wells and the use of stemwall construction may be used and is encouraged whenever possible to prevent changes in the grade within the drip line of protected trees.

(Ord. No. 92-72, § 13, 9-1-92)

Sec. 3-2-197. - Water retention/recharge areas.

As an additional alternative to present slope requirements, when the use of water retention/recharge areas can be accomplished on-site and is beneficial to trees to be preserved, such retention/recharge areas may be used.

(Ord. No. 92-72, § 14, 9-1-92)

Sec. 3-2-198. - Prohibited trees.

The planting of any prohibited species of tree, as identified in Figure 5 of this article, shall be strictly prohibited.

(Ord. No. 92-72, § 15, 9-1-92)

Sec. 3-2-199. - Prohibited practices.

The following practices or procedures shall be considered unlawful in the county, except where exempted:

- (a) It shall be unlawful practice for any person, firm or agency to "top" or allow to be "topped", or severely prune, so as to appear stunted, any tree.
 - (1) All tree pruning shall be conducted according to the latest edition of the National Arborist Association standards, which are hereby incorporated by this reference.
 - (2) Trees severely damaged by storms or other causes, or certain trees under utility lines or other obstructions where other pruning practices are impractical may be exempted from this section.
- (b) It shall be unlawful for any person, firm, or agency to climb any living tree, using the practice known as "spiking" or "spurring". The practice of "spurring" or "spiking" shall be allowed only to achieve the total removal of a tree for reasons authorized by this article.

(Ord. No. 92-72, § 16, 9-1-92; Ord. No. 98-045, § 11, 6-23-98)

Sec. 3-2-200. - Voluntary planting.

This article shall not be interpreted to restrict, regulate, or limit the voluntary planting of any tree, other than prohibited trees, in the county. The provisions of this article govern only the planting of trees which are required to be planted or retained under this ordinance.

(Ord. No. 92-72, § 17, 9-1-92)

Sec. 3-2-201. - Variance, appeal and penalty.

(a) *Variance.*

- (1) The board of zoning appeals may, upon appropriate application in writing, vary or waive the terms and provisions of this article due to unreasonable hardship in specific cases. The criteria for a variance are as follows:
 - a. Unique or peculiar conditions or circumstances apply to the property.
 - b. The strict literal enforcement of the terms of this regulation would result in demonstrable and undue hardship or deprive the property owners of rights commonly enjoyed by other property owners.
 - c. The requested variance is the minimum modification of these regulations.
 - d. The requested variance is compatible with all other county regulations.
- (2) The preservation of any approved tree over eighteen (18) inches DBH (diameter at breast height when measured at fifty-four (54) inches above natural grade) may be considered by the appropriate county official as the basis for the granting of a variance from the literal application of the provisions of this article and other county regulations.

(b) *Appeal.* Any party aggrieved by the administrative interpretation or enforcement of this article may appeal to the board of zoning appeals pursuant to the Charlotte County Code.

(c) *Penalty for violation.*

- (1) Each preserved tree destroyed or suffering detrimental alteration during construction must be replaced by either a comparable size and type of tree, or by tree replacement conditions as provided by this article, before issuance of a certificate of occupancy.
- (2) No certificate of occupancy or power release shall be issued for any development until all applicable approval or restoration plan conditions have been accomplished.
- (3) Failure to comply with any provisions of this article shall be referred to the code enforcement board, which has the power to levy a fine not to exceed two hundred fifty dollars (\$250.00) per day for each day the violation occurs.
- (4) If an individual fails to obtain the appropriate authorization for any tree removal prior to development, the community development department may require a fine, which will vary depending on the number of offenses within the calendar year.
 - a. For a first offense, the fee is four (4) times the original tree removal fee. In the case of tree removal fee exemptions, the fee is four (4) times the standard processing fee.
 - b. For a second offense in one (1) calendar year, the fee is four (4) times the original tree removal fee plus one hundred fifty dollars (\$150.00). In the case of tree removal fee exemptions, the fee is four (4) times the standard processing fee plus one hundred fifty dollars (\$150.00).
 - c. For multiple offenses within one (1) calendar year, the fee is four (4) times the original tree removal fee plus five hundred dollars (\$500.00) for each occurrence. In the case of tree removal fee exemptions, the fee is four (4) times the standard processing fee plus five hundred dollars (\$500.00)
- (5) If an individual falsifies information on any tree form, or does not post the tree permits on the subject property, the community development department may require a fine, which will vary depending on the number of offenses within a calendar year.
 - a. For a first offense, a written warning.
 - b. For a second offense in one (1) calendar year, the fine is fifty dollars (\$50.00).

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- c. For multiple offenses within one (1) calendar year, the fine is one hundred fifty dollars (\$150.00) for each occurrence.
- (6) For violations to any prohibited practice or planting a prohibited tree, the community development department may require a fine, which will vary depending on the number of offenses within a calendar year.
 - a. For a first offense, a written warning.
 - b. For a second offense in one (1) calendar year, the fine is fifty dollars (\$50.00).
 - c. For multiple offenses within one (1) calendar year, the fine is one hundred fifty dollars (\$150.00) for each occurrence.

(Ord. No. 92-72, § 18, 9-1-92; Ord. No. 98-045, § 12, 6-23-98; Ord. No. 98-045A, § 1, 10-6-98)

Secs. 3-2-202—3-2-210. - Reserved.